

October 24, 2017

VIA ELECTRONIC FILING

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: WC Docket No. 11-42 Lifeline and Link Up Reform and Modernization
EX PARTE PRESENTATION**

Recently, several eligible telecommunications carriers, including TracFone Wireless, Inc. ("TracFone"), received letters from the Universal Service Administrative Company ("USAC"). TracFone received letters dated September 22, 2017 and October 6, 2017. Each letter references situations where multiple persons are enrolled in TracFone's SafeLink Wireless® Lifeline program at the same address. The letters direct TracFone and other recipient carriers to take certain actions including: i) verifying that they have valid Independent Economic Household ("IEH") worksheets for each subscriber; ii) verifying each such subscriber's current residential address; and iii) reporting the results of such verifications to USAC using a prescribed form. The letters further direct each provider not to claim reimbursement for serving such subscribers through the FCC Form 497 filing process until it has completed the required verifications.

TracFone long has embraced policies and practices to limit Lifeline enrollments to one per household. In fact, prior to the Commission's promulgation of a one-per-household rule in 2012, TracFone limited Lifeline enrollment to one enrollment per residential address, with a limited exception for residents of homeless shelters. As described below, TracFone utilized special procedures to enable shelter residents to enroll in Lifeline while ensuring that such enrollees were not part of a household already receiving Lifeline-supported service.

Most of the addresses listed in the attachments to these letters are homeless shelters or other temporary living facilities. By definition, homeless shelters are places where the residents have no other residential address while there. Further, homeless shelter populations are transient. Persons stay at shelters for limited periods of time and then move on, perhaps to the streets, perhaps to other shelters or institutions. Sometimes the more fortunate ones are able to stay temporarily with friends or family members. Many, perhaps most, have no permanent addresses. That is why shelter resident addresses are considered to be temporary addresses.

Whenever a Lifeline provider receives a Lifeline enrollment application from a person claiming an address which already is claimed by a Lifeline customer, the provider is required to

have the applicant complete a USAC IEH worksheet. Pursuant to the Commission's rules, Lifeline providers may only allow such persons to enroll in Lifeline who have completed the IEH worksheet in a manner which demonstrates that the applicant is not part of a household (within the Commission definition of "household" codified at 47 C.F.R. § 54.400(h)) which already receives Lifeline service. TracFone obtains and retains completed IEH worksheets for all persons associated with the addresses contained in the USAC letters for which IEH worksheets are required. Accordingly, all such enrollments are in conformance with Commission rules.

The USAC letters require each provider to verify the **current** residential addresses for every subscriber who listed one of the homeless shelter addresses attached to those letters. The letters impose that requirement despite the fact that each of those subscribers has completed an IEH worksheet, demonstrated that he/she is not part of a household currently receiving Lifeline service, provided proof of eligibility, and has been enrolled in full compliance with the Commission's Lifeline enrollment requirements. Requiring such address verification subject to de-enrollment for failure to verify the subscribers' latest temporary address will be problematic and will result in many low-income Lifeline subscribers losing their supported service. TracFone knows from experience that reaching subscribers and obtaining responses is difficult and that such efforts uniformly have low response rates. This is especially true for the population segment at issue here – the homeless – persons who move from one temporary location to another, often with no fixed address and no permanent residence.

More so than many others, for these persons, a Lifeline-supported service literally is their "lifeline." It is those persons' lifeline to health care, to their families, to potential employers, to providers of social services. To force those subscribers out of the Lifeline program for no reason other than that their Lifeline provider has been unable to verify their most recent temporary address is inconsistent with the Commission's rules governing Lifeline and undermines the primary purpose for the Lifeline program – to enable the nation's neediest persons to have access to essential telecommunications services.

Moreover, the directives set forth in the USAC letters go far beyond the scope of USAC's authority. In this important regard, TracFone directs the Commission's attention to Section 54.702 of the Commission's rules. Section 54.702 lists with specificity USAC's functions and responsibilities. None of those functions and responsibilities enumerated at Section 54.702(a) through (o) empower USAC to direct Lifeline providers to verify current temporary addresses when the providers already have verified each subscriber's address as required by the Commission's rules. No USAC function or responsibility codified at Section 54.702 authorize USAC to prohibit Lifeline providers from claiming support for subscribers who have completed IEH worksheets and who have and had their eligibility verified in conformance with applicable Commission requirements. In fact, this USAC directive is on its face a statement of policy. Section 54.702(c) explicitly prohibits USAC from making policy, and from interpreting unclear provisions of the Communications Act or the Commission's rules.

By purporting to impose these additional requirements upon certain Lifeline providers, *i.e.*, those providers who received letters such as those described herein, including TracFone, USAC is unilaterally attempting to create its own requirement that Lifeline providers periodically re-certify the current addresses of those subscribers who reside at temporary locations. In the Commission's 2012 Lifeline Reform Order,¹ the Commission promulgated a temporary address re-certification rule. Section 54.410(g) as then-adopted, would have required Lifeline providers to re-certify every 90 days the residential addresses of each of their subscribers who had provided a temporary address (*e.g.*, a homeless shelter). That rule never was approved by the Office of Management and Budget and never became effective. In the Commission's 2016 Lifeline Modernization Order,² it chose not to impose such a rule. In reconsidering its 2012 requirement that Lifeline providers periodically re-certify their subscribers' temporary addresses, the Commission concluded that the requirement imposed a significant burden on consumers without a significant benefit.³ The Commission noted further that such a burdensome requirement was made even more unnecessary by other protections being implemented, including the National Lifeline Eligibility Verifier. Operation of the National Verifier is imminent with the initial launch in the first six states scheduled to occur in December of this year with the launch in other states to follow during 2018.

If the Commission wishes to again revisit the wisdom of a temporary address periodic re-certification requirement then it may propose such a rule in a notice of proposed rulemaking and invite public comment on the proposal, including comment on the costs and benefits of such a rule. Then, based on a current record (not a five year old record), the Commission can determine whether or not promulgation of a periodic re-certification rule would serve the public interest. It is the Commission's role to propose and adopt Lifeline rules. It is USAC's role to administer programs, including Lifeline, supported by the federal Universal Service Fund, not to establish program rules.

The Commission's concerns about potential Lifeline fraud related to enrollments at shelters and other temporary address locations can be addressed by other measures. One option would be to propose a temporary address re-certification rule as suggested in the preceding paragraph. Another effective approach would be to propose a rule requiring that Lifeline enrollment applications by residents of shelters and other temporary living facilities contain a certification by a shelter operator or manager that the applicant resides there at the time of enrollment. In fact, TracFone worked with Commission staff to develop and implement such a procedure to allow for enrollment by shelter residents prior to the Commission's 2012 rule changes. By requiring certification of residency by shelter managers, the Commission would be eliminating opportunities for persons not actually residing at such locations to claim those addresses for Lifeline enrollment purposes.

¹ Lifeline and Link Up Reform and Modernization, *et al.*, 27 FCC Rcd 6656 (2012).

² Lifeline and Link Up Reform and Modernization, *et al.*, 31 FCC Rcd 3962 (2016).

³ *Id.*, at ¶ 437.

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Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically. If there are questions, please communicate directly with undersigned counsel for TracFone.

Sincerely,



Mitchell F. Brecher

Counsel to TracFone Wireless, Inc.

Cc: Hon. Ajit Pai
Hon. Mignon Clyburn
Hon. Mike O'Rielly
Hon. Jessica Rosenworcel
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